IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr. A. No.742/2000

Reserved on.28.11.2007

Decided on.7.12.2007

State of H.P. **…appellant.**

Versus

Rakesh Kumar. **…Respondent**

Coram

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting ?[1]*. No.*

For the appellant	**:**	**Ms. Meenakashi Sharma, Deputy Advocate General.**
For the respondent/Accused	**:**	**Mr. Anup Chitkara, Advocate.**

Rajiv Sharma, J.

The respondent was accused in case No. RBT 34-II/99/98 and was prosecuted for offences punishable under sections 279 and 337 of the Indian Penal Code and 184 and 187 of the Motor Vehicles Act, 1988 in the Court of Judicial Magistrate 1st Class, Dehra, District Kangra, H.P and was acquitted on 8.8.2000. The State has filed the appeal against the acquittal of the respondent.

The brief facts as projected before the trial court are that on 30th August, 1998 at about 8.30 A.M., respondent was driving maruti van No.HP-37-5705 and he was coming from Ranital towards Dehra. When he reached Bankhandi, he hit Shri Gorkhu Ram and fled away from the spot. Shri Gorkhu Ram suffered multiple injuries and was brought to Sub Divisional Hospital, Dehra by Kishori Lal and Shankar Dass. Consequently the matter was reported to the Police, which resulted in

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment***? No.

registration of FIR No. 61 of 1998 for offences punishable under sections 279 and 337 of the Indian Penal Code and section 184 of the Motor Vehicle Act, 1988. After the completion of investigation, the challan was put up against the accused. The accused pleaded not guilty to the offences and claimed trial.

The prosecution had examined five witnesses, including complainant Shankar Dass as PW-1 and injured Gorkhu Ram as PW-2. The trial court acquitted the accused on 8.8.2000, hence, this appeal against the acquittal.

The learned Deputy Advocate General had strenuously argued that the prosecution has proved the charges against the accused. She also contended that the trial court has failed to appreciate the evidence led by the prosecution during the trial.

Mr. Anup Chitkara, Advocate appearing on behalf of the respondent had supported the judgment dated 8.8.2000.

I have heard the learned counsel for the parties and perused the record meticulously.

PW-1 Sh. Shankar Dass, PW-2 Sh Gorkhu Ram and PW-3 Kishori Lal are the eye witnesses to the occurrence dated 30.8.1998. Sh. Shankar Dass, who appeared as PW-1 had stated that on 30.8.1998, he was standing in front of the rain-shelter and a maruti came and hit against Gorkhu Ram. He has not disclosed the number of the maruti van to the police though at his instance FIR No. 61 of 1998 Ex.PW-1/E was registered at Police Station, Haripur. The only explanation given by Sh. Shankar Dass for not giving the details of the registration number of the van was that he is an illiterate person. Sh. Gorkhu Ram, injured had appeared as PW-2. He was hit by the vehicle and he was medically examined vide Ex.PA at Sub Divisional Hospital, Dehra and thereafter

referred to Dharamshala. He had also admitted that he had not disclosed the number of the registration of the van to the police. Sh. Kishori Lal, who appeared as PW-3 has admitted that though he had seen the accident, but his statement was not recorded by the police. PW-4, Narinder Kumar mechanically examined the maruti van HP-37-5707 vide report Ex.PW-4/A.

It is thus evident that none of the prosecution witnesses had disclosed the number of the van which according to them had hit Sh. Gorkhu Ram. The accused was not identified by them. The trial court has rightly discarded the version of the prosecution by making correct observation that there were material contradictions in the statements of the witnesses, more particularly, when the number of van and the factum of the accused not being recognized by them. The prosecution has failed to prove the charges levelled against the accused.

The result of the above discussion is that the appeal fails and the same is dismissed. The bail bonds furnished by the respondent-accused are discharged.

(Rajiv Sharma), Judge

December 7, 2007
Awasthi